

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6529**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

D'ANDRE TORRES, a/k/a "D", a/k/a Danny Scott,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Chief District Judge. (CR-92-153; CA-98-369-MU)

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Submitted: June 10, 2004

Decided: June 21, 2004

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Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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D'Andre Torres, Appellant Pro Se. Robert James Conrad, Jr., United States Attorney, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

D'Andre Torres seeks to appeal the district court's order denying Torres' motion under Fed. R. Civ. P. 60(b), in which Torres sought to vacate the district court's order dismissing as untimely his motion filed under 28 U.S.C. § 2255 (2000). The order is appealable only if a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); Reid v. Angelone, \_\_\_ F.3d \_\_\_, \_\_\_, No. 03-6146, 2004 WL 1119646 at \*4 (4th Cir. May 19, 2004). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Torres has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED